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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,446	10/24/2000	Carey B. Fan	M-8917 US	3917

7590

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EXAMINER

STULBERGER, CAS P

ART UNIT

PAPER NUMBER

2132

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/696,446

Applicant(s)

FAN ET AL.

Examiner

Cas Stulberger

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9 and 11-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9 and 11-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to communications: application, filed 10/24/2000; amendment filed 12/28/2004.
2. Claims 1-6, 8-9, and 11-30 are pending in the case. Claims 7 and 10 are cancelled. Claims 1, and 17 are independent claims.

### ***Response to Arguments***

3. Applicant's arguments filed 12/28/2004 have been fully considered but they are not persuasive.
4. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.
5. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

### **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2132

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6, 8-9, 11, 15-25, and 29-30 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,456,854 B1 to Chern et al.

8. In regards to claims 1 and 17, Chern discloses a method and system from tracking mobile telephone devices (Chern: column 1 line 57-59). Chern discloses that when a user requests information the hand set provides the location of the handset to the server (Chern: column 4, lines 47-48). This meets the limitation of “generating a message from a mobile device, the message having significance independent of reporting a geographical location of the mobile device; and attaching to the message an automatically generated location stamp indicating the geographical location of the mobile device as an origin of the message.”

9. In regards to claim 2, 3, 18 and 20, Chern discloses the system uses a GPS which determines location in terms of parameters such as latitude, and longitude (Chern: column 4, lines 23-29).

10. In regards to claim 4, Chern discloses an application which provides driving directions to the user (Chern: column 4, lines 57-67).

11. In regards to claims 5, 6, 21, and 22, Chern discloses the user request the business or service type vocally or via keypad entry (Chern: column 5, lines 13-14).

12. In regards to claims 8 and 23, Chern discloses “the handset user requests driving directions to the destination, and the handset relays the requests to the server” (Chern: column 4, lines 58-60).

13. In regards to claims 9, 19, and 24, Chern discloses a mobile telephone (Chern: column 1, lines 57-59).

14. In regards to claim 11 and 25, Chern discloses “the user may set a location filter, for example, that requires returned selections be within a certain maximum number of miles of the user’s current location” (Chern: column 5, lines 20-23).

15. In regards to claim 15 and 29, the web server validates a user name and password (Chern: column 6, lines 60-67).

16. In regards to claims 16 and 30, Chern discloses a first receiver at the web server that receives the GPS location information from the mobile unit and the recorder which stores the latitude and longitude information received from the mobile unit. The Browser device connects the to web server and accepts the transmission f the GPS information from a second receiver. The displayer present the GPS information on the display of the browser device (Chern: column 8, lines 21-42).

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 12-14, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No 6,456,854 B1 to Chern et al as applied to claim 1-6, 8-9, 11, 15-25, and 29-30 above, and further in view of U.S. Patent No. 6,067,529 to Ray et al.

19. Chern however does not disclose “wherein the action is a delivery,” “a charge to an account,” or “the charge is a credit card charge.”

20. Ray however discloses when a consumer makes a purchase, the sales terminal can generate a short message along with the detailed purchase information (Ray: Abstract). A menu can be displayed on the phone and the consumer can select the desired credit card number and request a receipt. The credit card number can be sent along with the transport address or alias address to the sales terminal for authorization of the credit card number (Ray: column 3, lines 52-67; column 4, lines 1-14).

21. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of sending a location identifier with a request from a mobile phone as disclosed in Chern with the method of sending a credit card number across a mobile phone as disclosed in Ray in order to provide substantially immediate purchase information to consumers in a paper-less environment (Ray: column 2, lines 5-7).

*Conclusion*

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cas Stulberger whose telephone number is (571) 272-3810. The examiner can normally be reached on Monday - Friday, 9:00A.M. - 6:00P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2132

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CS

CS  
April 22, 2005

  
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